

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Charthouse International Learning
Corporation,

Court File No. 0:07-cv-04596-RHK

Plaintiff,

v.

**STIPULATION FOR ENTRY AND
ORDER FOR CONSENT JUDGMENT
AND PERMANENT INJUNCTION**

Joel M. Leskowitz d/b/a SunShower
Learning and SunShower Productions,
Inc.,

Defendants.

WHEREAS, Plaintiff Charthouse International Learning Corporation (“Charthouse” or “Plaintiff”), a Minnesota corporation, commenced this action (hereafter the “Litigation”) by filing the Complaint herein against Defendants Joel M. Leskowitz (“Leskowitz”) d/b/a SunShower Learning and SunShower Productions, Inc. (collectively “SunShower”) alleging trademark infringement, unfair competition, false advertising, deceptive trade practices under the trademark laws of the United States of America, 15 U.S.C. § 1051, *et seq.* (the “Lanham Act”), and the statutory and common law of Minnesota based upon SunShower’s Internet advertising and marketing conduct;

WHEREAS, SunShower has waived service of the summons in this matter;

WHEREAS, Charthouse and SunShower have stipulated to the entry of this Consent Judgment and Permanent Injunction (“Consent Judgment”) without a trial and without the adjudication of any issue of fact or law, and the said Parties having consented to the jurisdiction of this Court and have compromised and consented to each and every provision, decree, and order of this Consent Judgment;

WHEREAS, Charthouse owns both federal and common law rights in the following trademarks:

- A. United States Registration No. 2,675,062, for the mark “FISH!” for prerecorded video tapes and films in the field of motivational thinking for business executives and employees and for printed materials in the nature of instructional and teaching materials.
- B. United States Registration No. 2,680,247, for the mark “FISH! TALES” for prerecorded video tapes and motion picture films in the field of motivational thinking for business executives and employees.
- C. United States Registration No. 2,682,817, for the mark “FISH! and design” for prerecorded video tapes, motion picture films, and printed instructional and teaching materials in the field of motivational thinking for business executives and employees.
- D. United States Registration No. 2,685,726, for the mark “FISH! STICKS” for printed instructional and teaching materials in the field of motivational thinking for business executives and employees.
- E. United States Registration No. 2,692,417, for the mark “THE FISH! PHILOSOPHY” for conducting classes, workshops and seminars in the field of workplace satisfaction and conducting classes, workshops and seminars in the field of corporate and organizational training.
- F. United States Registration No. 2,825,769, for the mark “FISH! TALES” for printed instructional and teaching materials in the field of motivational thinking for business executives and employees.
- G. United States Registration No. 2,838,890, for the mark “FISH!” for conducting classes, workshops and seminars in the field of workplace satisfaction and conducting classes, workshops and seminars in the field of corporate and organizational training.
- H. United States Registration No. 2,838,747, for the mark “FISH! ADVENTURE” for conducting classes, workshops and seminars in the field of workplace satisfaction and conducting classes, workshops and seminars in the field of corporate and organizational training.

(referred to herein as “Charthouse Trademarks”).

WHEREAS, Charthouse has alleged that SunShower has infringed Charthouse's Trademarks and engaged in conduct constituting unfair competition, false advertising, deceptive trade practices through its Internet advertising and marketing;

WHEREAS, SunShower admits that it does not have the right, license, or authority to use the Charthouse Trademarks in any manner; and

WHEREAS, Charthouse and SunShower have entered into a Settlement Agreement to amicably resolve the Litigation, including provisions for entry of this Consent Judgment and Permanent Injunction;

NOW, THEREFORE, pursuant to the Federal Rules of Civil Procedure and the terms and conditions set forth in the Settlement Agreement:

IT IS HEREBY ADJUDGED, DECREED, AND ORDERED:

1. This Court has jurisdiction over the parties and the subject matter of this action, and venue for this action properly lies in this district.
2. The Charthouse Trademarks are valid and enforceable.
3. SunShower and SunShower's individual principals, officers, directors, employees, shareholders, representatives, successors, assignees, or any affiliated entities, and all persons and entities in active concert or participation with them are hereby permanently enjoined from using any of the Charthouse Trademarks, or any marks confusingly similar to the Charthouse Trademarks, in any manner, including the following:
 - a. Using any of the Charthouse Trademarks, or any marks confusingly similar to the Charthouse Trademarks, in conjunction with any Internet keyword advertising as it is described in the Complaint.
 - b. Using any of the Charthouse Trademarks, or any marks confusingly

similar to the Charthouse Trademarks, in conjunction with any website metatags as it is described in the Complaint.

- c. Using any of the Charthouse Trademarks, or any marks confusingly similar to the Charthouse Trademarks, in conjunction with any SunShower advertising, including within the presentation of customer “testimonials.”
- 4. Judgment is entered against each Defendant, jointly and severally, in the amount of \$14,000.
- 5. This Court shall retain jurisdiction over this matter with respect to disputes concerning the interpretation and/or enforcement of this Consent Judgment.

Any violation of this Order shall be punishable as a contempt of court.

The Parties, by their signatures below or by signature of their authorized representatives, agree to the form, terms, and entry of this Consent Judgment and Permanent Injunction.

AGREED AND CONSENTED TO by Plaintiff:

DATED: December ____, 2007.

LINDQUIST & VENNUM P.L.L.P.

By s/
Bruce H. Little, #17421X
Christopher R. Smith, #340157
4200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2205
Telephone: (612) 371-3211
Facsimile: (612) 371-3207

**ATTORNEYS FOR PLAINTIFF
CHARTHOUSE INTERNATIONAL
LEARNING CORPORATION**

AGREED AND CONSENTED TO BY Defendants:

DATED: December ____, 2007.

**JOEL M. LESKOWITZ,
INDIVIDUALLY AND D/B/A
SUNSHOWER LEARNING**

By _____
Joel M. Leskowitz

and

SUNSHOWER PRODUCTIONS, INC.

By _____
Joel M. Leskowitz

Its _____

IT IS SO ORDERED.

DATED: 1/16, 2008.

BY THE COURT:

S/Richard H. Kyle

Richard H. Kyle
United States District Court Judge
District of Minnesota